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sc22026cp

Report on the 54th meeting of the GCC on 1 March 2022

Dear colleagues,

Since the installation of the General Consultative Committee (GCC) under President Battistelli in the context of the “Social Democracy” reform in 2014, this joint committee has met more or less every two months. Ten members of the Central Staff Committee and ten members appointed by the President are officially consulted on proposals usually concerning the conditions of employment – usually intended changes to the Service Regulations. By definition, the members are required to express their opinion by voting for or against each proposal or abstaining. From our perspective, an opinion should be much more nuanced than it can be expressed through YES/NO/ABSTAIN. Therefore, the CSC members have regularly produced written reasoned opinions, with or without a vote, while the management representatives have consistently voted yes.

This time there were three proposals on the agenda that are of foremost importance to all of us, in the short term, the medium term and the long term. First, already in the summer, the result of the proposed rewards exercise will be noticeable: **no more than 60% of eligible staff** will get a pensionable reward, the lowest percentage since the introduction of the new career system. Second, the disadvantages of the new ways of working will only become apparent over time. But this is still a minor problem compared to the unclear regulations regarding accidents at work in home offices and occupational diseases. Third, the ideas on so-called professional mobility cause great concern for the long-term future of the EPO.

President’s instructions on rewards ([GCC/DOC 04/2022](#))

The proposal to set a limit at 60% of eligible staff for pensionable rewards is to be seen from the perspective that staff falling in the category of the catch-up mechanism (i.e. no step advancement or promotion from 2018 to 2021) are already counted in the quota, contrary to the extra budget foreseen in 2020. Our members addressed the problem that at least 40% of eligible colleagues will be excluded from career progression, which is of particular concern because staff have already been confronted with a freeze of salaries in 2022 despite a substantial increase in the cost of living. Official statements on about the “*excellent work of all staff*” ([CIN meeting](#) of 18 February) and “*outstanding efforts*” ([Communiqué](#) of 8 March 2022) during the pandemic are a mockery in view of the proposed instructions on rewards. The President was obviously well aware in the meeting that his proposal would cause resentment among staff. Even constructive suggestions for improvements to the formal weaknesses of the proposed guidelines were met with a gruff reply.

New ways of working & Circular 419: Guidelines on new ways of working ([GCC/DOC 03/2022](#))

After the Administrative Council had been quite critical of his [first proposal](#) on new ways of working in December 2021, the President had to revise certain aspects to please the delegations. Their wishes were in part diametral to the prospects that the President offered to staff in numerous meetings. Being aware that many colleagues prefer working from home to working on the Office premises, our members still felt obliged to point out many critical aspects of the proposal. It should be in the interest of all that the envisaged new ways of working are not to the detriment of staff safety and health. Regrettably, none of our suggestions in this regard were taken up. While the originally foreseen abolishment of flexitime was fortunately no longer at stake, other aspects such as rather unlimited provisions regulating when the President could order mandatory telework remained in the draft circular. As the consultation on the revised proposal was (again) insufficient, e.g. essential information was missing and severe unclarities could not be resolved, our members were not in a position to vote on the document.

Orientation paper on mobility ([GCC/DOC 05/2022](#))

While the title of this document is rather inconspicuous, the implementation of its content could have immense implications for the future of the European Patent Organisation: decentralisation. The flimsy attempt to give the whole thing a positive touch by combining fancy keywords such as professional mobility and healthy work-life balance is suspicious. Presenting the whole thing as a “pilot” project with an initially limited scope is also not reassuring. In essence, the President wants to open up the EPO to Seconded National Experts (SNEs). Employees of other organisations, e.g. national patent offices, would be permitted to work for the EPO, but there is no upper bound on the number of SNEs coming to the Office, nor is there any limitation of the tasks which should be carried out by them in the EPO. Further flexibility as to the language requirements is explicitly envisaged. In the meeting, we strongly recommended to put the matter on hold. Otherwise, the EPO would be completely turned upside down in a few years. Our members emphasised that such a fundamental reform of the EPO should not start before a conference of ministers of the Contracting States had discussed the President’s decentralisation plan. According to Article 4a EPC, such a conference shall meet anyway at least every five years to discuss issues pertaining to the Organisation and to the European patent system. As you know, the conference has been overdue for a long time.

Please find in the annexes our detailed opinions on the three papers discussed in the meeting. It should probably come as no surprise to you that, this time too, the GCC members from the management voted in favour of all the President’s proposals.

Your Central Staff Committee

Annexes: reasoned opinions of the CSC members of the GCC

Opinion of the CSC members of the GCC on GCC/DOC 4/2022: President's instructions on rewards for 2022

The CSC members of the GCC give the following opinion on the President's instructions on rewards proposed in GCC/DOC 4/2022.

The document defines the annual budget envelope and reward types, the eligibility and criteria for rewards and the process and timeline.

On the consultation

1. For the first six reward exercises following the implementation of the New Career System in 2014, the President's instructions on rewards were submitted each year to the General Consultative Committee (GCC) **for information only**. In essence, the document could not be subject to a vote. The CSC members of the GCC argued each year that such instructions on rewards should be submitted **for consultation** in accordance with Article 38(2) ServRegs providing that the GCC shall be consulted on *"any proposal which concerns the conditions of employment of the whole or part of the staff to whom these regulations apply"*.
2. In 2021, the President's instructions on rewards were submitted for the first time **for consultation** and Mr Campinos invited the GCC members to send their opinion in writing. This change of practice was explained by an opinion of the Appeals Committee (ApC) recommending that such a document should be submitted for consultation. It is regrettable that only legal action convinced Mr Campinos to comply with the Service Regulations and acknowledge that rewards concern conditions of employment.
3. This year, the instructions are again submitted for consultation. At the time of writing the present opinion, the legal opinion expressed by the ApC has not yet been submitted to the GCC. Furthermore, the [INAP database](#) of the ApC still makes no mention of it.

On the merits

On the pensionable rewards

4. In the GCC meeting, the administration repeated that:

"Up to 60% of staff under II 1. 2) may receive one or two steps or a promotion"
(section II. 2. 1)

A careful look at the past reveals that Mr Battistelli's reward exercise in 2015 defined that up to 70% of staff may receive a pensionable reward ([GCC/DOC 12/2015](#)). The exercises in 2016 ([GCC/DOC 11/2016](#)) and 2017 ([GCC/DOC 16/2017](#)) were slightly below at 65%.

5. After setting the ceiling at 70% in 2020 ([GCC/DOC 1/2021](#)), Mr Campinos decreases the threshold during an ongoing pandemic back at the minimum level of 60% applied in 2018 ([GCC/DOC 5/2018](#)), 2019 ([GCC/DOC 4/2019](#)) and 2020 ([GCC/DOC 11/20](#)).
6. This should be furthermore put in perspective with the fact that:

"Staff falling in the category of the catch-up mechanism 2022 as described in Annex II are included in the 60%" (section II. 2. 1)

whereas the catch-up mechanism 2020 was under a separate budget¹ and amounted to an additional EUR 861.000.

7. The document in ANNEX 1 mentions that:

*“With regards to career progression, **the baseline scenario of the Financial Study 2019 corresponds to granting a step to 60% of eligible staff.** Every 5% increase in quota increases the coverage gap with around EUR 160 million.”* (emphasis added)

8. It is surprising that Mr Campinos still relies on the Financial Study 2019. In the Budget and Finance Committee meeting of 26 May 2021, Ms Simon (VP4) stressed that *“the Financial Study was only a model and did not aim at forecasting every year exactly only over a 20-year horizon”* ([CA/33/21](#), paragraph 69). If the Financial Study is not an annual model, why is Mr Campinos still basing his yearly reward exercise on it?
9. Management should refrain from referring to the Financial Study 2019 at all as it has now been undeniably confirmed to be wrong. The last reported values in 2021 for the EPO funds (EPOTIF in [CA/F 3/22](#) and RFPSS in [RFPSS/SB 62/21](#)) prove that they performed **EUR 4,9 billion**² better than foreseen by the baseline scenario in the study. While management is running out of convincing arguments, the EPO continues to make surpluses of at least **EUR 310 million** ([CA/51/21](#)) in 2021.
10. We consider that a purely competition-based career system excluding 40% of eligible staff is not fit for purpose. It is dogmatic to consider that 40% of eligible staff, regardless of their performance, should be excluded from any career progression. It is furthermore difficult to reconcile with Mr Campinos’ statement in his interview in the [CIN meeting](#) of 18 February 2022, where he acknowledged the *“**excellent work of all staff**”* (@47:35) during the pandemic.
11. We are willing to discuss in a Working Group a performance-based system defining a minimum career, an average career and a fast career. When the reward [statistics](#)³ show that 40% of eligible staff received 3 steps or less in the 6 reward exercises 2015–2020 and 31% of eligible staff received 3 steps or less in the 7 reward exercises 2015-2021, it is high time for a pragmatic revision of the New Career System. The mass complaints lodged with the Tribunal show that staff does not accept the system.

On the budget

12. Mr Campinos has reduced the available budget for pensionable and non-pensionable rewards to **EUR 21,600 million in 2022**, which is below the budget of EUR 22,600 million in 2020 ([GCC/DOC 11/20](#)), and EUR 22,000 million in 2019 ([GCC/DOC 4/2019](#)). At a time when the Office is making huge savings and no salary adjustment, Mr Campinos proposes to make further savings in the career of staff.
13. The Administrative Council had agreed to reward staff in the amount of **EUR 29,099 million** ([CA/50/21](#) & [CA/D 1/21](#)). Mr Campinos arbitrarily decided to reduce the agreed budget for rewards by **EUR -7,5 million** compared to the one in the budget 2022. This cut comes on top of massive unexpected savings in the salary mass because of the disastrous application of the salary

¹ [“One-off measure”](#), President Communiqué of 13-01-2020, *“this one-off measure has been decoupled from the next reward envelope. The sum will be taken out of the 2019 budget and will not come from, or affect, the funds available for the next rewards exercise.”* *“This one-off measure will take effect as of January 2020 and represents a total investment of around EUR 861 000.”*

² [“Salary Adjustment Procedure – Pillaging staff during the pandemic”](#), page 14, LSCMN publication of 28-01-2022 ([sc22022mp](#))

³ [“Virtual Floor Meetings - Why 1 day strike”](#), page 13, LSCMN publication of 11-12-2020 ([sc20022mp](#))

adjustment procedure 2020 and the freezing of salaries for 2021. It shows that, contrary to what Mr Campinos promised after the Financial Study 2019, if the Organisation makes more savings than expected, these are not redistributed to staff.

On the lack of transparency: functional allowances

14. For the first six reward exercises following the implementation of the New Career System in 2014, the budget for **functional allowances** was mentioned in the President's Instructions on rewards. In 2021, the budget for functional allowances was not even submitted to the General Consultative Committee (GCC) and the budget envelope was simply disclosed in an [announcement](#) published on the Intranet on 15 October 2021. The details concerning the distribution and entitlement remain undisclosed. The Office also carried out a harmonisation reform without discussing it with the staff representation and without providing any details or basis for it.
15. The CSC addressed this lack of transparency and consultation in a [letter](#) to the Administrative Council on 26 November 2021. To date, the letter has remained unanswered. For 2022, no consultation has taken place and the budget has not yet been communicated.
16. Initially, functional allowances were meant to compensate employees in Job Groups 4-6 for temporarily taking on managerial tasks above and beyond what is in their job description. This is for instance the case for Team Managers. Obviously, this did not apply to managers in Job Groups 1-3, since the New Career System already awarded them an increase in salary for higher responsibilities.
17. With [GCC/DOC 7/2017](#), management had Article 12(2) ServRegs amended to open up the possibility of functional allowance also for... management. Concomitantly, the functional allowance was massively increased from a maximum of *"an amount equivalent to two steps in the current grade"* to *"two monthly basic salaries per year"*.
18. The Office stated that this was justified for *"the sake of efficiency and flexibility"*. Annex I to new Circular 364 indicates that duties and constraints deserving a functional allowance are for *"functions of high responsibility (...) organizational and technical change management etc."* One can easily assess the degree of self-service and how the trend will continue if the budget for functional allowances remains undisclosed and not submitted to consultation. After having opened the cookie jar to help themselves, management is now hiding the cookie jar.

On the lack of transparency: performance criteria

19. The criteria for granting a reward still consist of a broad non-exhaustive list, which is interpreted differently among directorates and teams.
20. For steps, one of the criteria is the *"achievement of the expected objectives and competencies corresponding to grade, seniority and job profile"* and, for promotions, *"proven performance and expected objectives corresponding to the grade continuously achieved over a long period of time."*
21. However, such levels of expectations are not defined and the so-called corridors of "production/productivity" applied in DG1 continue to be purposefully hidden from staff. Furthermore, the *"long period of time"* is undefined and subject to managerial discretion which is often confused with arbitrariness at the EPO.
22. Allegedly to *"ensure a fair distribution of rewards to all categories of staff"* (section III. 1.), the document states that *"it is wished that specific attention is paid in the reward exercise" for:*

- *Staff on maternity and adoption leave (periods of maternity and adoption leave are to be neutralised by considering continuity between performance prior to and after the leave).*
 - *Staff who did not benefit from pensionable rewards over several years.*
23. If the Office were serious about fairness, it would not define it as a “wish” but as a requirement and the “specific attention” would be defined as a positive attention. It is also regrettable that **periods of sick leave and parental leave are not taken into account**. The period of “over several years” before an employee can benefit from a pensionable reward is undefined and open to managerial arbitrariness.
24. Colleagues are hardly ever given reasons as to why they did or did not receive a reward, and how they should perform to get one in the future. Only those who file a management review receive anything approaching an answer, which raises even further questions on the arbitrariness of the exercise.
25. We hear that some colleagues were successful in their appeals against a lack of reward. Their case was then submitted to a Reassessment Panel. However, this panel and its functioning are nowhere defined, its structure was never submitted to a GCC consultation and the staff representation obviously has never been involved in it.

On the communication of rewards allocation

26. Line managers are still prohibited from transparently sharing the information about whether or not they had proposed a staff member for a reward. They are only allowed to announce the President’s decision after the completion of the rewards exercise. This goes against the stated principle of “empowering managers”, which was put forward by management when disbanding the promotion board in 2014.
27. 40% of staff will be excluded from a pensionable reward. We are concerned that the text allows line managers to communicate the outcome of the reward exercise collectively. If a lack of individual reward is announced in front of the other team members, this could be experienced as humiliating for the employee concerned.

On the lack of transparency: calibration by PDs and VPs

28. As in the previous years, *“[w]hile performance is a pre-condition, it may not be sufficient to warrant a reward in view of other elements taken into account for its attribution such as comparison with peers, collaborative behaviour, priority of the Office and contribution to the Office’s achievement”*.
29. This broad statement allows management at PD or VP level to arbitrarily exclude anyone from the reward exercise during the so-called calibration process. The term “peers” is not made concrete in any document: are the peers from the same team? from the same grade? from the same directorate? from the same technical field in DG1?

On the collaborative bonuses

30. For the first time, the document contains a list of 2021 projects and initiatives which will be “considered” for the collaborative bonus to be paid in 2022. This list is explicitly not exhaustive and thus also allows for arbitrary expansion by management. There is no transparency on the criteria for awarding a collaborative bonus: role in the project, actual amount of the bonus, etc. There is also a lack of transparency in the definition of collaboration.

31. The word “collaboration” appears to be a communication exercise designed to hide the fact that even during the Covid-19 pandemic, the Office decided to maintain in a morally questionable way a competition-based system that goes blatantly against the values of cooperation. The collaboration bonuses appear to be a fig leaf on the actual exclusion of 40% of eligible staff from a pensionable reward. Such a regressive and non-inclusive policy is impossible to reconcile with the “Strong Together” message the Office is trying to convey and the “**excellent work of all staff**”.

Conclusion

32. The many pitfalls identified by staff and their representation during the last seven years of application of the New Career System remain unresolved. The reward exercise is still a lottery, which is unique among international organisations.

For the above reasons, the CSC members of the GCC give a **negative** opinion on the document.

The CSC members of the GCC

Opinion of the CSC members of the GCC on GCC/DOC 03/2022 (CA/18/22): New Ways of Working & Circular 419

Introduction

1. The CSC members of the GCC give the following opinion on the “New ways of working” proposed in GCC/DOC 03/2022 (CA/18/22). The document is a revised version of former GCC/DOC 24/2021 (corresponding to [CA/77/21](#)).

On the consultation

Meetings with the Working Group

2. The Central Staff Committee (CSC) received an invitation to constitute a Working Group on Teleworking on 20 May 2021 and proceeded to the nominations on 10 June. In a [letter](#) of 22 June, the Working Group requested clarification on the mandate of the Working Group, the content and outcome of consultation of other stakeholders, including focus groups, and an overview of the savings made by the Office under the “emergency teleworking guidelines”. Our requests were never answered.
3. A [first meeting](#) took place on 14 July 2021 without any agenda or supportive document. The Working Group decided to structure the meeting along the lines of our [letter](#). Essentially, the administration refused to provide the Working Group with an overview of the savings made thanks to teleworking and rejected upfront the idea of a teleworking allowance. The administration never mentioned nor suggested that there could be changes to the Guidelines on arrangements for working hours ([PART 4j](#) of the CODEX), in particular the abolition of flexi-time.
4. A second meeting took place on 29 September 2021 where the Office only exposed in a presentation its principles. In the view of the Office, teleworkers shall bear the costs and the responsibility for compliance with the Health & Safety requirements associated with teleworking. Teleworking may be limited, suspended or withdrawn by the line manager. The Working Group requested a fast joint conflict resolution panel for such cases.
5. On 18 October 2021, the staff representation received a draft version of the Circular ignoring all the points previously raised. A [third meeting](#) of 1h30 took place on 22 October 2021. The Working Group explained three major points of concern: 1) the timeline for implementation, 2) the lack of specific conditions for mandatory teleworking, and 3) the abolition of accrual of flexi-hours for all staff. The latter came as a surprise as it had never been mentioned before by the administration. The Working Group requested copies of the legal assessments, on the basis of which the Circular had been drafted, especially on the question of national income taxation and residence.
6. A [fourth meeting](#) of 1h30 took place on 4 November 2021. In preparation of the meeting, the CSC appointees in the Working Group had sent an email with comments on the proposal (see annexes to the [report](#)). Despite these submissions, the administration had not brought any of the proposed amendments to the Circular. In the meeting, the Working Group protested against the abolition of accrual of flexi-hours for all staff. In comparison, the Part-Time Home Working (PTHW) guidelines only suspended accrual of flexi-hours to home workers on the days on which they worked from home. The administration agreed to convene further working group meetings in case the proposal on the “New Ways of Working” were amended following feedback from the delegations of the Administrative Council.

Meetings with the CSC and the GCC

7. A meeting of the CSC with the President took place on 16 November 2021 during which we could only focus our intervention on flexi-hours given the limited time available. In a [letter](#) of 18 November 2021, the CSC provided further arguments and made final proposals because it believed that a jointly agreed text was possible.
8. Consultation in the GCC took place on 23 November 2021 during which a revised text (GCC/DOC 24/2021 - REV) was tabled. A few hours before the meeting, the CSC had received a letter (see ANNEX 1) from Mr Campinos explaining the minor amendments made and why our proposals on accrual of flexi-hours and the fast joint conflict resolution panel were rejected.
9. At the time of the first GCC consultation, neither the requested legal assessments nor the opinion of the COHSEC were provided to the GCC.

Submission to the Administrative Council

10. The guidelines on New Ways of Working ([CA/77/21](#)) were originally tabled **for opinion** on the agenda of the 169th meeting of the Administrative Council ([CA/69/21](#)) on 14 December 2021. This means that a vote were to take place and, if positive, the Guidelines could be implemented by the Office.
11. On the day of the meeting, the document was re-classified as **for information** only. The meeting report [published](#) on 21 December 2021 by the Office remained silent about the details. In fact, major concerns expressed by Member States, in particular host states and large states, took away the President's hope of a positive opinion. The CSC published a [report](#) on 21 January 2021 explaining what happened. Delegations found the scheme to be "too generous" for staff, to raise governance issues and to lack a clear legal basis.

COHSEC opinion

12. In a [publication](#) made on 31 January 2022, the CSC together with its appointees in the COHSEC raised again awareness on the drastic restrictions in case of teleworking for qualifying an accident as being an **occupational accident**. The concerns had already been raised in the COHSEC [opinion](#) published on 7 December 2021.

Renewed consultation required for an updated version...

13. In its [Communiqué](#) of 2 February 2022, the Office announced an updated version of the text taking into account feedback received from Member States. The text addresses only one of the many concerns of the staff representation, namely the abolition of accrual of flexi-hours which is now off the table.

... but no further working group meetings

14. In view of the renewed consultation, the CSC appointees in the Working Group requested in an email of 8 February 2022 (ANNEX 2) that the working group be consulted in a meeting and be provided with a copy of the new Circular beforehand.
15. In an email of 11 February 2022 (ANNEX 2), the **administration refused to convene a Working Group meeting contrary to its earlier commitment**. It further relegated the topic of occupational

accidents (for information only) to the COHSEC meeting of 23 February 2022 during which none of the proposals of the CSC nominees were taken into account.

16. The present document GCC/DOC 03/2022 was submitted to the GCC on 14 February 2022 within the statutory deadline. However, no version with tracked changes was provided to identify the amendments made.
17. Consultation in the GCC took place on 1 March 2022 during which none of the proposals of the staff representation were taken into account.
18. At the time of the GCC consultation, the President provided **neither the requested legal assessments nor the opinion of the COHSEC to the GCC.**

On the merits

Geographical scope

Primary teleworking place

19. The Circular defines that the primary teleworking place shall be the employee's residence within their country of employment (Article 1(a)). However, the Service Regulations (Articles 25, 55a, see also [Judgment 2278](#), §11 of the considerations) currently do not know of any such requirement to reside in any particular country. This makes the regulation unclear.
20. During the consultation, the administration clearly stated the employee's residence shall be within the country of employment and that there would be no geographical limitation around the place of employment. For example, an EPO employee recruited in Munich or Berlin would be allowed to reside in Hamburg and to telework from there. Besides his residence, an employee may also telework at any other location within the country of employment (Article 1(a)).

Teleworking from other territories

21. The Circular defines that teleworking can be performed at any other place within European, continental or island, territory of the EPC Contracting States within the times zones UTC, UTC +1, UTC +2 and UTC +3 (Article 1(b)). The Canary Islands, the Azores islands and Madeira would be considered as territory of EPC Contracting States.
22. The Protocol on Privileges and Immunities ([PPI](#)) ratified by all EPC Contracting States clearly states, Article 16(1), that "*salaries and emoluments shall be exempt from national income tax*". The CSC members in the GCC understand that allowing teleworking from territories outside of the EPC Contracting States where the [PPI](#) is not applicable would have created issues in terms of national income tax.

Time scope

"Sense of belonging"

23. At the earliest stage of the consultation, the minimum attendance was set at 40 working days a year at the employee's site of employment. The Office wanted to offer the possibility for staff to spend up to 20 days at any other Office site (e.g. an employee recruited in The Hague could have spent these days in Vienna) to foster the "one-office concept". The Office has actually designed the future new

Vienna building so that it offers more space than required by the number of Vienna-based employees.

24. However, the administration explained that there was early reluctance from the host states. In addition to that, according to a legal assessment, with 60 days of telework in another territory and an additional 20 days outside the country of employment (plus weekends, annual and other leave etc) the employee would not meet the requirement to spend more than six months in the country of employment to be considered a resident and hence avoid taxation and social security issues. Although duly requested, **the legal assessment in this matter was never provided.**
25. In the first GCC consultation, the text proposed up to 20 days at another Office site of the country of employment (in practice only applicable for Munich and Berlin) and obviously subject to the workspace available. The text also allowed the Office to define up to 20 days either uniformly for all staff or for groups thereof as periods of common presence, i.e., where staff at Directorate General (DG) level, directorate level or team level would be subject to compulsory attendance instead of teleworking (Article 4(2)). These days would have been most likely together with the public holidays and compulsory Office closure days. In the [Communiqué](#) of 15 November, the administration clarified that these days are intended to be **full working days.**
26. Following the discussions in the Administrative Council of 14 December 2021, the text was revised to increase the minimum attendance to **60 working days** a year at the employee's site of employment (Article 4(1)). The concrete choice of these working days is subject to managerial discretion (Article 8(1)(a) & Article 7(1)(c)).
27. Concerning the minimum attendance, the CSC members in the GCC wonder whether 60 days will solve the concerns of the delegations such as Germany which pointed out that Article 55a ServRegs define that "*[p]ermanent employees in active employment shall normally perform their work on the Office's premises*" (see [report](#)). Furthermore, the "sense of belonging" (Article 4) is merely defined by a number of working days. This shows a quite restricted vision of an Office-wide identity.
28. The abandonment of the possibility to spend any of these days at another Office site will disappoint the expectations raised among staff during the consultation.
29. The abandonment of a predetermined calendar of working days for compulsory presence could be perceived positively from a flexibility point of view. However, the minimum attendance remains subject to managerial discretion which is often confused with arbitrariness at the EPO. We are concerned that unequal treatment and undue pressure might be exerted on staff members.
30. The Office intends to generalise "virtual transfers", namely affecting a staff member to a team at another site without any physical relocation. Virtual transfers help the Office to save on allowances (e.g. expatriation) and costs (e.g. for removal). In such a case, the employee's site of employment is different from the site of his team. A compulsory attendance on the site of employment and not the site of the team would in such a case contradict the original intent of the "sense of belonging".
31. Finally, if the intent is to bring teams together on site, how will the "site" be defined for cross-site teams? The one where the majority of the team members are? The one where the team manager is based?

Teleworking from other territories

32. Teleworking from another EPC contracting state territory is limited to **60 working days** a year (Article 3(d)).
33. The [Willis Towers Watson survey](#) proposed five teleworking scenarios, one of them consisting in full teleworking from any EPC member state. Staff therefore expected that the Circular would offer this possibility and some even sold their house and moved to another EPC Contracting State. The Office clearly failed in terms of expectations management and affected staff deserve full transparency on the underlying grounds for the change, including all necessary supportive documentation.
34. Management justified the limitation to 60 days (plus weekends, annual and other leave etc.) by the fact that an employee would need to spend more than six months in the country of employment to be considered as a resident and hence avoid taxation and social security issues. Again, **the legal assessment in this matter was never provided.**

Part-timers

35. The minimum attendance at the Office for part-timers will be calculated proportionally but in no case can it be less than 20 working days a year (Article 4(3)).
36. The CSC members in the GCC note that a 50% part-timer may thus be imposed to work 20 days in the Office without any flexibility as to these working days if the Office specifies 20 days of compulsory attendance.
37. The Circular defines that employees may telework in blocks of full or half working days (Article 3(b)). We requested this to apply as well proportionally to part-timers. The administration did not bring any unambiguous clarification on this point, not even in its [Communiqué](#) of 15 November.

Mandatory teleworking

38. The Circular defines teleworking as voluntary but **the Office may request or instruct employees to telework** in exceptional cases (Article 5(2)).
39. The exceptional circumstances (Annex 1 – Definitions) are defined as:

“unforeseen circumstances that amongst other,

(a) may require a different work assessment and planning to ensure business continuity and proper execution of the Office’s tasks (Article 5(1)) or

(b) are considered as, or may lead to, a collective health or safety crisis (e.g. pandemic) (Article 5(2))

The “*amongst other*” renders the definition a mere blanket clause allowing the Office to implement the scope arbitrarily as it deems fit.

40. During the consultation, management explained that this would be limited to specific cases, for example if it is imposed in the country of employment (e.g. terrorist attack, pandemic) or in case of severe problems with one of the EPO buildings. We warned also that with the planned construction and renovation projects, the Office’s offer to “book a room for a day” might not be sufficient and colleagues might be forced to telework from home.

41. However, in the [Communiqué](#) of 22 November 2021, “Extended coronavirus measure”, the Office showed that it can act beyond its promises by unilaterally imposing the strictest mandatory teleworking measures since the beginning of the pandemic with no equivalent in the host states. Staff who are unable to work from home may come to work on Office premises only in agreement with line management. In practice, the request to work on Office premises is assessed by the Team Manager, the Director and then escalated to COO and PD level for approval. Such micro-management even goes against the principle of empowering direct line managers. Several groups of staff contacted the staff representation considering the measure to be excessive.

Accrual of flexi-hours & abolition of core-time

Abolition of accrual of flexi-hours?

42. At the earliest stage of the consultation, the administration intended to suspend all provisions of the Guidelines on arrangements for working hours concerning the accrual of flexi-hours and the establishment of core time.
43. In comparison, the PTHW guidelines only suspended accrual of flexi-hours to home workers on the days on which they worked from home. During the Working Group meetings, management could not give any explanation on the reasons for the mere abolition. The proposal also created unrest among staff.
44. The CSC appointees in the Working Group insisted many times and the CSC even made counter-proposals by [letter](#) at the latest stage of the first GCC consultation.

Arguments

45. Flexi-hours (as they are called) are a means for flexibility in managing one’s *working time/schedule*, when working on the Office premises. Teleworking is a means for flexibility in *working location*. Hence, the two concepts are entirely different. Creating one and removing the other would not mean increasing flexibility, rather removing one form of flexibility and introducing another, where the beneficiaries are not the same. The teleworking scheme is defined as a **pilot scheme** (Article 16(1)) and remains essentially on a **voluntary basis** (Article 2(2)). A group of at least 25% of staff declared that they are not interested in geographical flexibility and others might not be allowed to make use of it due to the nature of their tasks. This group would have been negatively affected by the abolition of accrual of flexi-time as well as all others planning to work partly in the Office’s buildings.
46. Just before the pandemic, according to the [Social Report 2019](#) EPO staff used on average 3.6 days of flexitime per year. This represents office-wide 24.000 days of flexibility. The working-time framework (Article 3 of the “Guidelines on arrangement for working hours”, [PART 4j](#) CODEX) still sets the working day at a minimum of six hours (maximum ten hours) and the minimum working week at 35 hours (maximum 48 hours). An abolition of accrual of flexi-hours would have removed any possibility for staff to deviate from this framework. In addition, flexi-hours accrual is very simple to administrate and gives visibility and predictability for management, while helping staff to manage their work-life balance.
47. Flexitime also enables sick staff to attend [medical visits](#) during working hours. And doctors sometimes only work during EPO working hours, especially in Bavaria. In the past, time for medical visits was allowed in the Guidelines for Leave, Circular 22, but it was then removed from Circular 22 when flexitime was introduced. If flexitime were abolished, there would be nothing left for medical visits in the Guidelines for Leave. Such a change should rather be part of an in-depth discussion on time and leave.

48. The [results](#) of the New Normal staff survey showed that 73% were interested in the abolition of core hours and 82% of staff wants flexibility in working times.

Abandonment of the abolition of accrual of flexi-hours

49. Following the discussions in the Administrative Council of 14 December 2021, the text was revised to suspend only the provisions of the Guidelines on arrangements for working hours concerning the establishment of core time (Article 15(1)).
50. The final version is now more liberal than the PTHW guidelines. Staff can also accrue flexi-hours on the days they work from home.

Employee responsibilities

Workflow and registration

51. The employee must register working/teleworking plans in advance in the electronic online tool and ensure at all times that all registration are up to date and reflect the actual mode (Article 10(1)). There is no clear deadline for registering and the requirements “at all times” can be arbitrarily interpreted.
52. By contrast, the line manager is not required to give the required authorisation sufficiently in advance for the employee to have the time to make its arrangements (Article 10(2)).

Costs borne by the employee

53. The Circular clearly states that the employee’s choice to telework shall carry no costs to the Office (Article 2(5)), exception for a few exceptions (Article 5(1)).
54. As explained in the [CSC letter](#) of 22 June 2021, the Office made huge savings during the pandemic thanks to teleworking (e.g. they closed down the canteens) and the employee incurred extra costs (e.g. electricity, Internet connection, water, heating, adaptation of the home).
55. Management rejected our claim for a *teleworking allowance*. Even in the case of mandatory teleworking, the Circular defines that the employee shall bear all the costs associated with teleworking.
56. Costs savings still appear to be one of the drivers for teleworking.

Health and safety

57. The employee remains responsible for arranging a suitable workplace for teleworking. This applies even in the case of mandatory teleworking.
58. During the Working Group meetings, management seemed to believe that by now all staff should be equipped to be able to work from home and therefore to comply with mandatory teleworking. We explained that some residences are simply not suitable for teleworking. During the GCC meeting, one COO finally admitted that it is indeed the case for some staff members after having had a personal look at the requests for working on Office premises despite mandatory teleworking.

59. The PTHW Guidelines defined ad hoc checks by mandated persons at the home workplace to provide support for occupational health and safety and ergonomics. The new circular does not contain any such provision. Instead the Office will only provide guidance to the employee. In the [Communiqué](#) of 15 November 2021, the administration merely stated that virtual visits of the Ergonomics Work Unit Coordinators (Ergo-WUCs) at home working locations will be considered as a means of supporting teleworkers to comply with **health and safety** requirements.
60. As is the case in the PTHW guidelines, also for the new circular (Article 13), the Office will not be liable to employees (and probably third parties) for any damage, material loss or injury suffered because of teleworking, unless such damage, loss or injury was caused by equipment supplied by the Office. It reduces to the bare minimum the responsibility of the Office and the scope of (tele)work accidents.

The Office has not provided an assessment of psychosocial risks linked to teleworking. The CSC members in the GCC are not convinced by the management's argument that if there are any risks, they are solely linked to the pandemic. No monitoring of unhealthy working patterns (rest breaks, maximum hours per day / week) is foreseen. In the document (paragraph 13), the Office makes a wrong presentation of the correlation between teleworking and short-term sick leave during the pandemic. The CSC members in the GCC are aware that colleagues register themselves as teleworking although they are sick.

61. Serious issues were not addressed and should be improved before the entry into force. Some are addressed below.

Occupational health accidents

62. If an employee suffers an accident on the Office premises, or while on duty travel, or on the way between the place of work and the residence, an accident can be classified as an occupational accident. If an accident is classified as an occupational accident, there are e.g. differences in respect to coverage of the medical costs, medical visits and transportation.
63. The proposal (Article 13) **reduces the qualification for an accident occurring at home to an injury due to fire or malfunction of EPO equipment (e.g. laptop, screen, power cord, electrically adjustable desk).**
64. First, the definition is much narrower than in national legislation, especially Germany and Austria (see CSC [paper](#), Annex):

„Wird die versicherte Tätigkeit im Haushalt der Versicherten oder an einem anderen Ort ausgeübt, besteht Versicherungsschutz in gleichem Umfang wie bei Ausübung der Tätigkeit auf der Unternehmensstätte.“

Once again, the Office breaches its obligations under [Article 20 PPI](#).

65. Second, the definition is legally doubtful as it is more restrictive than the higher-ranking Article 28(2) ServRegs, which makes no difference between work and telework:

“If an employee or former employee suffers injury by reason of his office or duties, the Organisation shall compensate him in so far as he has not wilfully or through serious negligence himself provoked the injury, and has been unable to obtain full redress.”

In the case of **mandatory teleworking**, how could the Office even dare to impose a more restrictive coverage to an employee who was forced to comply?

66. Third, the administration has not communicated any benchmark on occupational health accidents during teleworking, but a look at other International Organisations reveals that:

The [OECD staff regulations](#) define (page 442):

Work accident

36. **Within the context of teleworking**, any accident which officials prove had occurred at the teleworking location, during teleworking hours, and as a result or in connection with the functions performed, shall be considered a work accident.

The [EUIPO management decision](#) defines (page 8)

Article 7 - Health and safety

1. **Teleworkers** shall benefit from the same insurance against accident and occupational disease as staff working at the workplace.

67. The EPO's definition is therefore below benchmark when compared to other international organisations.

Line manager responsibilities

Eligibility

68. The Circular defines that all employees are eligible for teleworking in principle. However, teleworking may be limited or excluded if incompatible with the nature of the tasks.
69. Management explained that it is the direct line manager who would make this assessment. The CSC members in the GCC believe, however, that different line managers may take diverging decisions in similar situations. There is therefore a risk of unequal treatment.

Limitation, suspension or withdrawal

70. The Circular defines that line managers shall take decisions pertaining to the Circular.
71. In this respect, it details that teleworking shall be limited or suspended, or the approval withdrawn, in cases of non-adherence to the minimum attendance requirements, a negative impact of teleworking on the employee's performance, any behaviour which is not compatible with the needs of effective team collaboration (e.g. non-attendance to team meetings) or other operational needs.
72. The criteria are vague and could open room for arbitrariness. More clarity was needed but was not provided during the consultation.

Period of notice

73. In its first version, the Circular defined that the decision to limit, suspend or withdraw the approval is taken with at least one month's notice (Article 7(5)). This was half of the period of notice for PTHW (two months) although negative decisions as to PTHW had a lower personal impact because the scheme was limited to an area of 100 km around the place employment. We explained that the notice period should have been increased instead of reduced.

74. Shortly before the first GCC consultation, the administration decided to **align the notice period back to two months in accordance with the PTHW scheme.**

Fast conflict resolution panel – Joint supervisory implementation committee

75. The Circular does not define any clear process and steps for negative decisions on teleworking and the criteria remain vague (Article 7(4)). Teleworking has a significant impact on personal and family planning which cannot be reconciled with long delays incurred by the management review and internal appeal systems, let alone the time horizon at ILOAT as the ultimate end of any dispute.
76. Staff has reported that, even during the pandemic with the current applicable “Emergency Guidelines”, some line managers have instructed staff teleworking in another EPC Contracting State to come back to their place of employment (because of alleged low performance) and to leave their family behind.
77. International organisations such as the European Union have set a joint supervisory implementation committee to monitor the functioning of their teleworking policy. We proposed to set up a fast joint conflict resolution panel for dealing with litigious cases. Unfortunately, the administration clearly stated that it was not convinced by our proposal.

Entry into force

78. The Circular replaces both the Emergency Teleworking Guidelines in place since March 2020 and the revised PTHW Guidelines in place since May 2018.
79. In its first version, the Circular set the entry into force (Article 16(1)) on 1 February 2022 and transitional provisions until 1 September 2022. The transitional provisions (Article 17) were to apply only for employees who on the date of entry into force of the Circular had a dependent child enrolled at pre-school, primary or secondary level in another EPC Contracting State than the country of employment.
80. In view of the evolution of the pandemic, the administration tabled a revised version not setting any date of entry and precise transition period. The revision also includes the extension of transitional provisions (Article 17) to employees with a dependent child enrolled at a childcare facility.
81. The proposal was originally foreseen to be a pilot for three years. During the debates in the Administrative Council meeting of 14 December 2021, some delegations asked to shorten the duration of the pilot to two years, or one year or even six months.
82. The fact that the guidelines are only a **pilot** could in itself already be a problem if they do not provide staff with planning security for medium-term arrangements. On the other end, too short a pilot phase would make it difficult to interpret the lessons.

Conclusion

83. The CSC members of the GCC are aware that when designing “New ways of working” it is not possible to meet the expectations of all colleagues, but that all parties should try to find a compromise between the staff needs, the Office needs and legal considerations. Importantly, when asking the staff representation for an opinion and a vote, all necessary information should be made available and the implications clearly understandable.
84. In this respect, the CSC members of the GCC note that:
- The opinion of the COHSEC was never presented in the GCC.
 - The legal assessments, in particular on national income taxation and residence, were never provided to the staff representation.
 - The lack of a proper definition of occupational accidents, especially during teleworking, puts the EPO below all standards.

For the above reasons, the CSC members of the GCC are not in a position to vote on the document.

The CSC members of the GCC

Annexes:

- Letter of 23 November 2012: reply to open letter regarding GCC/DOC 24/2021
- Email of 11 February 2022: Follow-up meeting on the Teleworking Policy

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Date: 23.11.2023

Your open letter dated 18 November 2021 regarding GCC/DOC 24/2021
“New ways of working”

Dear Mr Chair,

Thank you for your letter dated 18 November 2021 regarding GCC/DOC
24/2021 “New ways of working”.

As you know, our proposal on the “New ways of working” has been
extensively discussed in the WG and most recently directly with the CSC at
our meeting on 16 November. We note that you recognise that this scheme
provides an even larger flexibility to achieve a work-life balance while
securing our sense of belonging.

At our most recent meeting the Office accepted your formal requests to
extend the notice period to two months (Article 7 (5)) and to cover under the
transitional measures (Article 17) parents with children enrolled in a crèche
(childcare facility) away from their country of employment. Given your
express commitment at that meeting that the CSC members appointed in the
GCC would not object to the submission of a new document to the GCC
agenda, the Office’s services integrated these changes into a new draft along
with a few linguistic improvements recommended by the Language Services.

Furthermore, at that meeting we announced to you that the new scheme will
not enter into effect on 1 February 2022 as initially scheduled. Regrettably
the most recent developments in our host and other member states oblige
us to extend the current Emergency guidelines until the end of May 2022 and
we will continue monitoring the pandemic closely. The new draft reflects also
this change of planning (Article 16).

As regards the final three points of your letter, we would like to note the following:

First of all, we wish to reiterate our clear position that in a scheme that provides such extent of flexibility and suspends the core time, flexitime is redundant. Staff will have all means to define their working schedule and location in close alignment with their line managers, hence resorting to tools of a past scheme will not be necessary. Allowing the accrual of flexitime when working onsite, as you propose, would create two categories of staff whereas this is not justified in a scheme that guarantees equal conditions for all types of work. We note however your reference to the Guidelines on the arrangement of working hours and we will look into any adjustments to it the months to come.

Regarding the conflict resolution panel, the Office considers that the creation of a special resolution mechanism is not necessary. Let's not forget how well a similar scheme of teleworking has been functioning over the last 20 months without such panel, in fact under more challenging circumstances. We have no reason to believe that the application of the new scheme, which is based on trust and transparent communication, and which is in the common interest of staff and the Office, will require additional formal ventiles. However, also on this point, the Office's services are preparing appropriate workflows which will ensure that good coordination and understanding will prevail in the vast majority of, if not all, cases. Of course, this will be a pilot scheme and will be subject to close monitoring. Whichever improvements are deemed necessary will be undertaken along the way. This, I trust, reflects the essence of your latest proposal.

Finally, as regards the Health & Safety matters, those that were already mature for consultation were discussed on 18 November in the COHSEC. More relevant points are currently in process and will be submitted to upcoming COHSEC meetings.

I look forward to our discussions.

Yours sincerely,

António Campinos

From: Social Dialogue <socialdialogue@epo.org>

ANNEX 2

Sent: 11 February 2022 13:43

To: Juan Vázquez Regueiro <jvazquez@epo.org>

Cc: Oliver Dreute <odreute@epo.org>; Mohamed El Hadouchi <melhadouchi@epo.org>; Andreas Sattler <asattler@epo.org>; Elodie Bergot <ebergot@epo.org>

Subject: RE: Follow-up meeting on the Teleworking Policy

Dear Juan,

Thanks for your email. The updated Circular will be published in the GCC library in accordance with the GCC rules and will be available to all staff. The new draft will be discussed at the GCC meeting on 1 March. Furthermore, the occupational accidents will be discussed in the COHSEC meeting on 23 February. We look forward to continuing the discussion with you and your colleagues on the topic which will take place within the remit of the respective statutory bodies.

Best regards / Mit freundlichen Grüßen / Sincères salutations

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Please consider the environment before printing this email.

From: Juan Vázquez Regueiro <jvazquez@epo.org>

Sent: 08 February 2022 08:59

To: Social Dialogue <socialdialogue@epo.org>

Cc: Oliver Dreute <odreute@epo.org>; Mohamed El Hadouchi <melhadouchi@epo.org>

Subject: Follow-up meeting on the Teleworking Policy

Dear Administration members of the WG on Teleworking,

During the last meeting of 4 November 2021, the Administration agreed to convene further working group meetings in case the proposal on the "New Ways of Working" (CA/77/21) were amended following feedback from the delegations of the Administrative Council.

In an email sent to centralstcom@epo.org on 28 January 2022 followed by an Intranet [Communiqué](#) on 2 February, the President announced his intention to submit to the General Consultative Committee on 1 March a revised version of the text.

In view of the renewed consultation, we kindly request that the working group be consulted as well in a meeting and be provided with a copy of the new Circular beforehand.

We also kindly draw your attention to the following outstanding issues:

- the legal assessments in particular on national income taxation and residence are still missing (see the GCC opinion, attached),
- the lack of proper definition of occupational accidents, especially during teleworking (see the CSC publication sc22005cp, attached)

We are looking forward to receiving your invitation to a meeting and to continue fruitful discussions on the teleworking policy.

Sincerely yours,

Juan

On behalf of the CSC nominees in the Working Group

Attachments:

- Opinion on GCC/DOC 24/2014 of 25 November 2021
- Publication of the CSC on "Teleworking and occupational accidents" of 31 January 2022

Best regards / Mit freundlichen Grüßen / Sincères salutations

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Opinion of the CSC members of the GCC on GCC/DOC 05/2022

Orientation paper on mobility

Introduction: the legal framework

The missions of the EPO as an international organisation are primarily governed by the provisions of the EPC. The conditions of employment of staff are primarily governed by the Service Regulations (ServRegs). Amending those provisions falls within the remit of the Contracting States and/or the Administrative Council¹. A conference of ministers of the Contracting States should also meet to discuss issues pertaining to the Organisation².

The mission of the Office is normally executed³ by its employees in active status on the Office premises. The “core mission” can be defined as granting European patents under the supervision by the Administrative Council⁴, with EPO employees acting as international civil servants. EPO employees and such other persons specified in the Protocol on Privileges and Immunities (PPI) taking part in the work of the Organisation, enjoy, in each Contracting State, the privileges and immunities necessary for the performance of their duties⁵.

Cooperation agreements might be signed by the (President of the) Office with Contracting States on particular matters. However, the European Patent System relies on centralisation⁶. In particular, when the agreements relate to the “core mission”, it would appear that the Council cannot leave it to the President to determine “the nature, origin and number of the European patent applications”, or PCT applications, in respect of which examining tasks may be entrusted to industrial property offices of the Contracting States. The question also arises for other tasks necessary to fulfil the core mission of the Office.

The problems posed by secondment

The paper includes a short section about mobility within the EPO, which falls within the competence of the President. The paper includes a main section on mobility across organisations, which will result in amendments to the Service Regulations and, hence, approval by the Administrative Council and which seems to extend the “core mission” beyond the current places of employment and its execution beyond international civil servants. The paper comprises no concrete proposal but a very general framework, the details of which will require later implementation.

¹ Articles 172 and 33 EPC

² Article 4a EPC

³ With all due respect paid to the Judiciary; Articles 21 and 22 EPC

⁴ Article 4(3) EPC

⁵ Article 8 EPC

⁶ See the [Protocol on the Centralisation of the European Patent System and on its Introduction](#)

The measures linked to secondment, both inbound and outbound, raise by far the most questions.

- EPO employees on outbound secondment remain EPO employees by definition, albeit in inactive status. The nature of the duties attributed to them are *a priori* undefined and unlimited and will depend on bilateral agreements⁷ between the respective Contracting States and the (President of the) Office.
- Seconded national experts on inbound secondment are no EPO employees. The nature of the duties attributed to them are *a priori* undefined and unlimited and will also depend on bilateral agreements between the Contracting States concerned and the (President of the) Office.
- Where employees on inbound secondment are national civil servants, they remain national civil servants⁸ and will return to their national administration after the secondment. Thus, they have an obligation of loyalty to their national employer. This raises issues of conflict of interests and calls into question the status of the Office as an international organisation.
- The document mentions full immersion⁹ as well as hybrid working. It is not clear how this aligns with the “New Ways of Working”, i.e. whether the constraints will be the same for EPO employees and national staff on inbound secondment.
- Bilateral agreements carry the risk of divergent conditions and duties, also resulting in different conditions of employment. The CSC members in the GCC are concerned that neither the Administrative Council nor the Staff Representation will keep track of the different regimes.

Young Professionals

The President intends to expand the Pan-European Seal Programme to a system where people will be seconded abroad for a maximum of two years after a one-year traineeship at the EPO. Secondment seems to mean that they will then return to the Office.

The future administrative status of these people is unclear. The President has orally announced a new category of EPO staff. The document is silent on this point. In the first place, the procedures and criteria for selecting them are not transparent. After their traineeship (and subsequent secondment), they will have a competitive advantage when competing with other applicants for a position at the EPO. It appears that the programme is currently already serving as a stepping stone to employment as an EPO staff member.

We presently have in the Office permanent staff and staff on fixed-term contracts. Services are increasingly outsourced to external providers. Creating yet another category of staff would be difficult to reconcile with the declared aim of fostering “One Office”.

⁷ Memoranda of understanding, co-operation agreement or secondment agreements: see paragraph 51

⁸ Albeit in non-active status: see e.g. Article 42 (1) ServRegs EPO

⁹ Only in the context of outbound secondment: see paragraph 47

General issues with the above schemes

- Facts and figures: the document remains silent on the extent of the various schemes, i.e. the number of people who would take part in the various schemes, the nature of the tasks entrusted to them or their duration.
- Legal considerations: the schemes raise questions as regards privileges and immunities, the legal norms and the jurisdiction applicable to the people participating in the schemes, in addition to the questions resulting from just “hybrid working”. They are not addressed in the document.
- The core mission of the Office should be fulfilled by EPO employees as international civil servants. The President apparently intends to have those tasks also fulfilled, in whole or in part, by others employees, some of them either national civil servants or staff in a new category. In most cases, those concerned will apparently receive a lower salary and worse conditions of employment than EPO staff. It looks like other categories of cheaper employees are being created on the back burner.
- Many schemes come at a cost to EPO employees entrusted with the training of non-EPO staff in addition to their normal duties, who sometime see the high turnover as an additional burden with little return on investment. This does not raise their level of engagement. This aspect needs to be addressed.

Internal mobility and “praktika extern”

The schemes are essentially a continuation and extension of already existing schemes. They do not call for particular comments, apart from the strange association of “hybrid working” with praktika of a very limited duration (2-3 weeks). Full immersion would seem more appropriate.

Unpaid leave: extension

The CSC does not have much to comment here, except that extending the duration of unpaid leave to ten years might make re-instatement at the Office difficult.

Lowering the language standards

Under the guise of “diversity”, the President intends to facilitate access to the Office to staff not having a sufficient command of the three EPO official languages. A sufficient command of the EPO languages is, in our opinion, a must in order to fulfil the core mission of an international organisation with the appropriate quality standards.

Conclusion

The schemes proposed in the document completely blur the distinction as to the nature of the missions entrusted to different categories of employees, some being EPO staff, some being employed in national patent offices, some being trainees. It also dilutes the geographical aspect in the concept of “mobility”.

The document seems to make mobility a mere matter of management by the President of the Office¹⁰. Unsurprisingly, the Staff Representation plays no role in his plan. More surprisingly, there is no active role foreseen for the Administrative Council: it will simply be “updated” on the progress made¹¹.

Before the Organisation engages into something that looks very much as a blank cheque that might end up being decentralisation in disguise, we feel that all stakeholders, including the Contracting States should discuss these wide-ranging issues pertaining to the Organisation and to the European patent system as a whole.

The CSC members of the GCC.

¹⁰ See Article 10(1) EPC

¹¹ See paragraph 17 in the document.